

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING MAP AMENDMENT REPORT (#FZC-21-15)
BRIAN BROWN
AUGUST 23, 2021

I. GENERAL INFORMATION

A. Project Description

This is a report to the Flathead County Planning Board and Board of Commissioners regarding a request by Rick Breckenridge from Breckenridge Surveying and Mapping, Inc., on behalf of Brian Brown and Teresa McAllister, for property located within the Lower Side Zoning District. The proposed amendment, if approved, would change the zoning of the subject property from *AG-80 (Agricultural)* to *SAG-5 (Suburban Agricultural)*.

B. Application Personnel

1. Owner

Brian Brown and
Teresa McAllister
1380 Lower Valley Road
Kalispell, MT 59901

2. Applicant

Rick Breckenridge
2302 Highway 2 East #6
Kalispell, MT 59901

C. Process Overview

Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the South Campus Building at 40 11th Street West in Kalispell.

1. Land Use Advisory Committee/Council

The property is not located within the jurisdiction of a Land Use Advisory Committee.

2. Planning Board

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on September 8, 2021, at 6:00 P.M. in the Second Floor Conference Room of the South Campus Building located at 40 11th Street West in Kalispell, MT. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration.

3. Commission

The Commissioners will hold a public hearing on the proposed zoning map amendment at a future date. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Office of the Board of Commissioners at 800 South Main Street in Kalispell.

II. PROPERTY CHARACTERISTICS

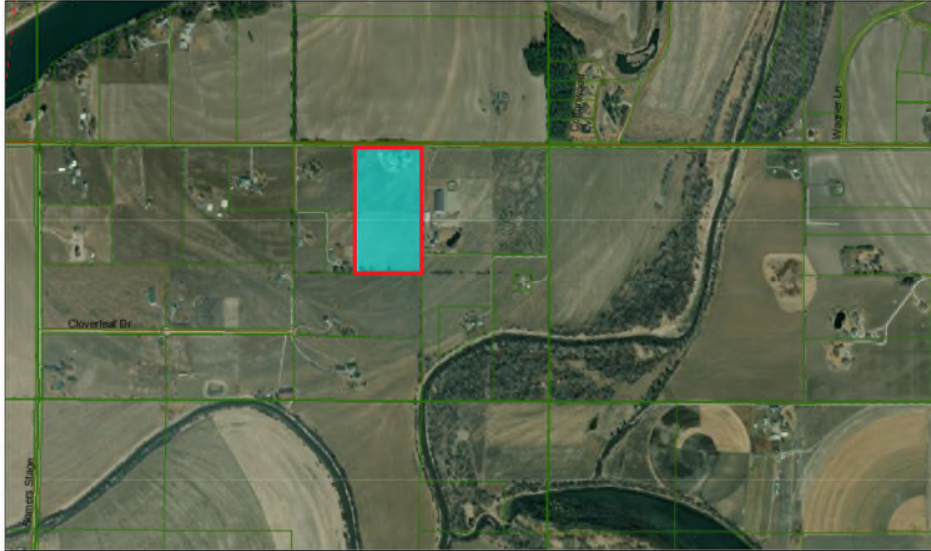
A. Subject Property Location and Legal Description

The property is located 1380 Lower Valley Road near Kalispell, MT (see Figure 1 below) and is approximately 19.55 acres. The properties are legally described as:

THE EAST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST
QUARTER OF SECTION 35, TOWNSHIP 28 NORTH, RANGE 21 WEST P.M.M.,
FLATHEAD COUNTY, MONTANA

EXCEPTING THEREFROM THAT PORTION CONVEYED TO FLATHEAD BY DEED RECORDED JUNE 20, 1961 IN BOOK 439, PAGE 997, AS DOC. NO. 4135, RECORDS OF FLATHEAD COUNTY, MONTANA.

Figure 1: Subject property (outlined in red)



B. General Character of and Reason for Amendment

According to the application, *“This application for a Zone Map Amendment is for a change in zoning designation from AG80 to SAG5. The applicant is requesting a zone change to allow his son to build next to him and as part of his estate planning. The reason for the SAG-5 designation and SAG-10 is that this section was surveyed by Don Larsen in 1992 under Certificate of Survey No. 9258 and it was found not quite enough acreage that in the breakdown, what would be 10 acres comes out just under by a quarter of an acre. Mr. Brown would like to have his son build on half of the property, but on half is not quite 10 acres. Thus, the need for this request.*

P.2.3 Recognize the potential for imprecisely surveyed parcels throughout Flathead County as a result of the original surveying methods used by the General Land Office. As a result, respect private property rights by allowing minimum lot sizes that enforce the spirit of density guidelines without punishing those who own slightly less than standard acreage units.

This proposal falls under this policy guideline. As a result of the original GLO survey and the subsequent acceptance of corner positions, the Brown parcel is slightly under the aliquot part of the section.

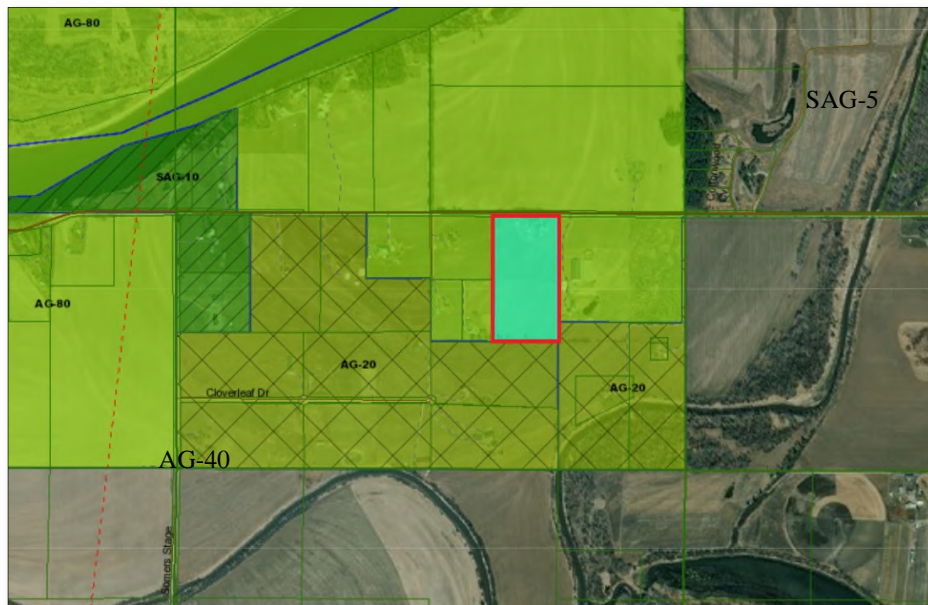
This corner of the Lower Side Zoning District is about the only area where the designation does not conform with the existing use. AG-80 is intended, according to definition in the Zoning Regulations ‘to control the scattered intrusion of uses not compatible with an agricultural environment, including by not limited to, residential development.’ The problem in this area is that the ‘residential development’ that the AG-80 zoning was trying to prevent, had already taken place. The adjoining properties to the west were already residential uses. The zoning to the south, which is AG-20, was subdivided as Cloverleaf

Estates where the zoning was amended for SAG-10. Flathead County, at least south of Lower Valley residential development that has an agricultural basis.”

The subject property contains one tract located on Lower Valley Road. The property is open space/pasture with a single-family dwelling, barn, detached garage, and other accessory buildings located on the property.

The application states the reason for the proposed zone change is to, “*Conform with existing conditions. These properties were zoned as AG-80 when the tract was already a 20 acre parcel.*”

Figure 2: Current zoning on the subject property (highlighted in red)

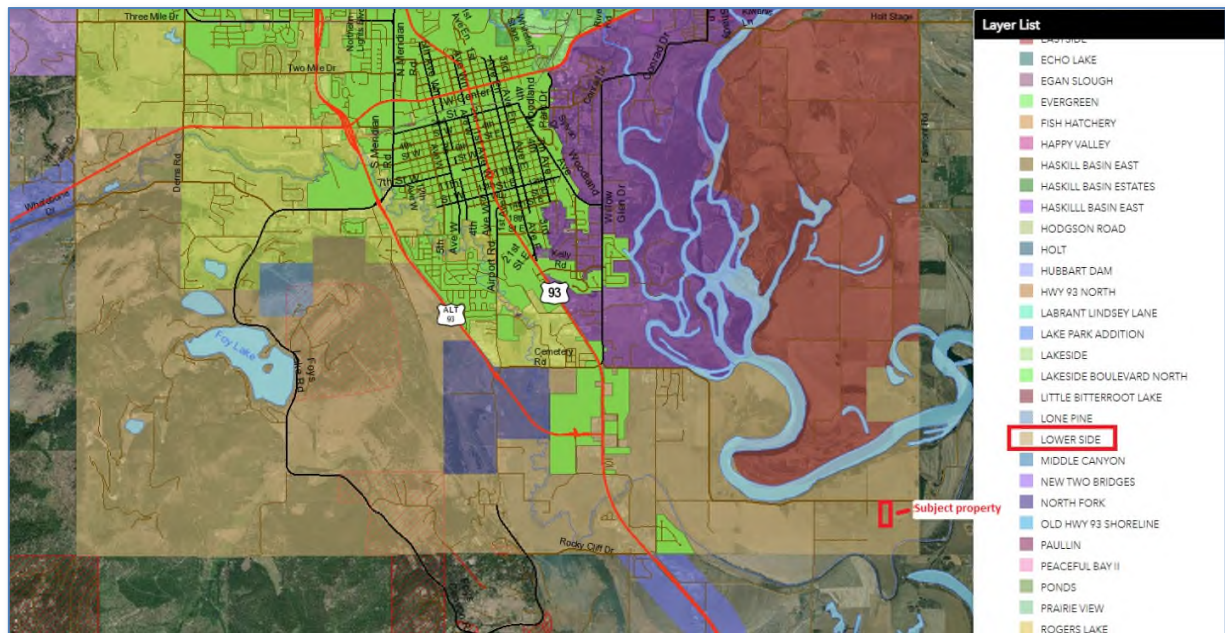


C. Adjacent Zoning and Character of the Overall Zoning District

The property is located in the Lower Side Zoning District. The character of the zoning district in the vicinity of the subject property is generally agricultural, suburban agricultural and rural residential.

The neighboring properties to the north, east and west are zoned AG-80. To the south is AG-20. Further to the east 0.25 acres there is no zoning designation.

Figure 3: Lower Side Zoning District (highlighted tan & property outlined in red)



D. Public Services and Facilities

Sewer:	Individual septic systems
Water:	Individual wells
Electricity:	Flathead Electric Cooperative
Natural Gas:	Northwestern Energy
Telephone:	CenturyTel
Schools:	Somers School District Flathead High School District
Fire:	Somers Fire District
Police:	Flathead County Sheriff

III. COMMENTS

A. Agency Comments

1. Agency referrals were sent to the following agencies on July 13, 2021:

- Flathead County Solid Waste
- Flathead City-County Environmental Health Department
- Flathead County Weeds and Parks Department
- Bonneville Power Administration
- Somers Fire District
- Flathead High School District
- Somers School District
- Montana DNRC
- Montana FWP

2. The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- BPA
 - Comment: “At this time, BPA does not object to this request, as the property is located 0.71 miles away from the nearest BPA transmission line.” Email received July 16, 2021
- Flathead City-County Health Department
 - Comment: “Environmental Health offers no comment regarding this proposed zone change.” Email received July 7, 2021
- Flathead County Solid Waste
 - Comment: “The District requests that all solid waste generated at the proposed location be hauled by a private licensed hauler. Evergreen Disposal is the licensed (PSC) Public Service Commission licensed hauler in this area.” Letter dated July 23, 2021

B. Public Comments

1. Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on August 18, 2021. Legal notice of the Planning Board public hearing on this application was published in the August 22, 2021, edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning map amendment will be physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the general character of the proposed zoning map amendment, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

2. Public Comments Received

As of the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Planning Board public hearing scheduled for September 8, 2021, and/or the Commissioner’s Public Hearing. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

IV. EVALUATION OF PROPOSED AMENDMENT

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing zoning amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

A. Build-Out Analysis

Once a specific zoning designation is applied in a certain area there are certain land uses that are permitted or conditionally permitted. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses. The build-out analysis is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best or worst case

scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zoning map amendment to the future of the community to allow for the best possible review.

Per Section 3.04 of the Flathead County Zoning Regulations (FCZR), AG-80 is defined ‘*A district to protect and preserve agricultural land for the performance of a wide range of agricultural functions. It is intended to control the scattered intrusion of uses not compatible with an agricultural environment, including, but not limited to, residential development.*’

The SAG-5 designation is defined in Section 3.08 FCZR as, ‘*A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*’

The permitted uses and conditional uses for the proposed and existing zoning contain several differences. The amendment would decrease the number of permitted uses from 25 to 16 and the number of conditional uses would increase from 22 to 28.

The permitted and conditional uses listed within the AG-80 but not allowed in SAG-5 are as follows:

- Dairy Products processing, bottling, and distribution.
- Feed and seed processing and cleaning
- Feed lot: cattle, swine, poultry
- Fish Hatchery.
- Ranch employee housing
- Airport.
- Animal farm
- Communication tower/mast.
- Landfill, sanitary disposal of garbage and trash.
- Radio and television broadcast tower.
- Rifle range.

The permitted uses within the AG-80 listed as conditional uses in the SAG-5 are as follows:

- Caretaker’s facility.
- Cellular communications tower.
- Kennel.
- Riding academy, rodeo arena.
- Stable, public.

The conditional uses listed within the SAG-5 but not allowed in AG-80 are as follows:

- Community residential facility.
- Golf course.
- Golf driving range.
- Manufactured home park.
- Recreational vehicle park.

The bulk and dimensional requirements within the current and proposed zoning require a 20-foot setback from front, rear, side-corner and side boundary line for principal structures and a setback of 20 feet for the front and side-corner and 5 feet from the rear and side for accessory structures. A 20-foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20-foot setback is required from county roads classified as collector or major/minor arterials for both the proposed and current zoning. For both zones the maximum height is 35 feet. The permitted lot coverage in SAG-5 is 25% and 20% in the AG-80.

The existing zoning requires a minimum lot area of 80 acres. The subject property totals 19.55 acres, zero additional lots could be created under the existing zoning. The proposed zoning requires a minimum lot area of five acres therefore approximately 3 additional lots could be created. The requested zone change has the potential to increase density through subsequent subdivision in the future. The bulk and dimensional requirements are similar, but the amendment would reduce the number of permitted uses while increasing the number of conditional uses.

B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.

The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R).

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as 'Suburban Agricultural.' The proposed SAG-5 zoning classification although defined as 'Suburban Residential' does have as the first permitted use in the zoning designation 'Agricultural/horticultural/silvicultural' use. Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, "This map depicts areas of Flathead County that are legally designated for particular land uses. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plans. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map." Staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on goals and policies of the Growth Policy.

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as 'Agricultural Land Use.' The proposed SAG-5 zoning classification would appear to be consistent with the current designations. Chapter 10 Part 3: Land Uses

Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, “This map depicts areas of Flathead County that are legally designated for particular land uses. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plans. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map.”

Staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved, the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on goals and policies of the Growth Policy.

Part 4 of Chapter 2 the Growth Policy states, *‘It is clear that agriculture plays a vital role in both the economy and culture of Flathead County. The custom and culture of agriculture in Flathead County is one of the features that is contributing to rapid growth and development. Lands that have traditionally been used for agriculture are being converted increasingly to residential uses as residents seek rural living.’*

Part 7 of Chapter 2 the Growth Policy states, *‘The change in land uses from agriculture and timberlands to residential and the accompanying impacts of that change, create some of the greatest growth challenges to the county.’*

Currently the property is developed with a single-family house, barn, detached garage, and outbuildings, and is open space. The properties to the west are zoned AG-80 and contain lots which range in size from approximately 5 acres to 10 acres. Many of the neighboring properties are large single-family lots, and large lots not in agricultural production. Located approximately 1.84 miles to the northwest is similarly zoned SAG-5 property and approximately 0.25 miles to the east is property with no zoning designation. The proposed zoning would continue to allow for potential agriculture use.

The introduction to Part 7 of Chapter 2 states, *‘The density of residential developments is an issue raised throughout the public involvement process [...] Residential development, including the subdivision of land, is not inherently problematic. However, residential development at a density that is not compatible with existing local services and neighborhood character is likely to be contentious.’* It goes onto say, *‘Capacity is based on the size and quality of the road, and once the capacity is exceeded, public safety suffers. Low density residential land uses on low capacity roads are a match, but medium or high density land uses on low capacity roads create problems.’*

The proposed zoning would allow for both agriculture and silviculture on the property. The SAG-5 zone is a suburban residential zone with a five-acre minimum lot size. SAG-5 does not require public water and sewer and the lots would generally be large

enough to accommodate a septic system with a drainfield while providing separation for a well. The proposed change would allow for potentially three additional lots and potentially increase traffic by 30 average daily trips, which as discussed below, could be accommodated by the existing road system serving the property.

The following is a consideration of goals and policies which appear to be applicable to the proposed zone change:

- ❖ **G.2** – *Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.*
 - The amendment would allow the owner to subdivide but would also allow for the continuation of the existing use on the property.
- ❖ **G.3** – *Preserve the cultural integrity of private and public agriculture and timber lands in Flathead County by protecting the right to active use and management and allowing a flexibility of private land use that is economically and environmentally viable to both the landowner and Flathead County.*
 - **P.3.3** – *Maintain flexibility of land use options to forest and agriculture land owners by focusing on mitigating the negative impacts of development.*
 - **P.4.3** – *Identify a desirable gross density for rural residential development that retains land values, preserves the agricultural character of the community and allows for efficient provision of government services (law enforcement, fire protection, transportation, etc.)*
 - The property is not currently used for agriculture however, the proposed SAG-5 zoning would continue to allow for agriculture similar to the existing zone.
 - ❖ **G.4** – *Preserve and protect the right to farm and harvest as well as the custom, culture, environmental benefits and character of agriculture and forestry in Flathead County while allowing existing landowners flexibility of land uses.*
 - **P.4.5** – *Develop equitable and predictable impact-mitigation for converting agricultural lands to residential uses.*
 - The proposed zoning would allow for agriculture on the subject property while providing additional flexibility to the landowner to subdivide the property and sell off smaller lots.
- ❖ **G.8** – *Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and welfare of neighbors and efficiently provide local services.*
 - The SAG-5 designation would allow for densities of one dwelling unit per five acres for single family. One dwelling unit per five acres would not require public water and sewer. Further discussion on public utilities is contained later in this report.
- **P.8.2** – *Identify required criteria for various densities that support the seven elements of the public’s vision outlined in Chapter 1.*

The Seven Elements of the Public’s Vision include:

 - *Protect the Views*

The vision states, *‘One characteristic that residents of Flathead County cherish is the view. Views of mountains, lakes, forests, wildlife, and open spaces are cited as characteristics residents of Flathead County would not change. “Scenic resources” are valued throughout the county regardless of age, gender or location.’* The proposed zone change if approved would likely have minimal impact on views because it would allow for a potential of approximately three additional lots if able to meet the subdivision review criteria.

- *Promote a Diverse Economy*

The vision states, *‘The cost of living and home ownership should be affordable to the median income.’* The proposed zone change if approved could allow for additional single family residential adding to the housing supply which has the potential to make homeownership more affordable because the SAG-5 zone would allow for Accessory Dwelling Units which have the potential to add affordable rental units to the county.

- *Manage Transportation*

Vision 3 discusses managing traffic flow through land development patterns; this report contains discussion regarding the proposals impacts on traffic below.

- *Maintain the Identity of Rural Communities*

The vision states, *‘Preventing communities from growing together and losing their unique identities was another concern of many scoping meeting participants. The concern of seeing Flathead County turn into one continuous sprawling development was expressed in a variety of ways. Many residents of Flathead County do not want to see strip malls, used car lots, mini storage, warehouse stores, lumber yards, and other visually dominating land uses disrupt the perception of driving between unique rural communities.’* The proposed SAG-5 zoning is a rural zoning district that would allow for rural residential development.

- *Protect Access to and Interaction with Parks and Recreation*

This report contains a discussion on parks and recreation below.

- *Preserve the Rights of Private Property Owners.*

As previously stated, the amendment would allow the owner to subdivide the property but would also allow for the continuation of agricultural on the property.

- ❖ **G.15** – *Promote a diverse demographic of residents.*

- **P.15.1** – *Encourage housing, employment, education and recreation to attract, support and maintain young families.*

- The SAG-5 zone would allow for single family dwelling, Class A manufactured homes and would also allow for accessory dwelling units as a permitted use, all of which has the potential to make housing more affordable for young families.

- ❖ **G.23** – *Maintain safe and efficient traffic flow and mobility on county roadways.*
 - **P.23.2** – *Limit private driveways from directly accessing arterials and collector roads to safe separation distances.*
 - Primary access to the property is currently via Lower Valley Road. Lower Valley Road is a public paved two-lane road within a 60 foot easement at this location. Any subdivision of land that results from this zone change would not add private driveways accessing this road. Driveways would be required to be accessed by an internal subdivision road.
- ❖ **G.31** – *Growth that does not place unreasonable burden on the school district to provide quality education.*
 - This report contains discussion on the proposal’s potential burden on schools below.
- ❖ **G.32** – *Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.*
- ❖ **G.33** – *Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.*
 - This report contains discussion on the adequacy of emergency service below.

Finding#1: The proposed zoning map amendment from AG-80 to SAG-5 is generally supported by the text, goals, and policies of the Growth Policy because it would encourage housing that maintains traditional development patterns, is not currently used for nor has it been historically used for agricultural, and it would allow for lot sizes and land uses that exists in the adjacent AG-20, and AG-80 zones.

2. Whether the proposed map amendment is designed to:

a. Secure safety from fire and other dangers;

The application states, *“This parcel is in the Somers Fire District. This proposal will not increase or decrease any public hazard. The paved road affords any first responder quicker response time if an emergency call is made. There are no known hazards on the property or any of the adjoining properties.”*

The subject property is located within the Somers Fire District and the nearest fire station in the district is located approximately 10.5 miles from the property. The Somers Fire Department would respond in the event of a fire or medical emergency. The Somers Fire Department did not provide comment on this proposal.

The subject property is not located in the Wildland Urban Interface (WUI) or designated as County Wide Priority Area.

The subject property is located within a shaded Zone X area on FEMA FIRM Panel 30029C1840J. Shaded Zone X indicates an area which has a 0.2% Annual Chance Flood Hazard.

Finding #2: The proposed map amendment would secure safety from fire and other dangers because the subject property is not in the WUI, and emergency services are available.

Finding #3: The subject property has minimal flood risk because it is located in a flood hazard Shaded Zone X.

b. Promote public health, public safety, and general welfare;

According to the application, *“All developments less than 20 acres are reviewed by DEQ for public health. There are 67 different laws, rules and regulations that one must address to in order that the public health is not adversely affected. At the appropriate time, this parcel will be reviewed by DEQ and a certificate of compliance will be on file with the Flathead County Clerk and Recorder’s Office. Lower Valley Road, the collector road that services this property, is adequately maintained by the Flathead the Flathead County Road and Bridge Department and is currently at less than 10% capacity. The latest traffic count reported that this portion of Lower Valley Road had 381 vt/d. there is no public safety concern because of inadequate roads.*

“The public safety in this area relies mainly on the Flathead County Sheriff’s office as there is no local police department. According to a Daily Interlake article, Sheriff Brian Heino attributed an increase in crime rates to affordable housing. ‘I think housing’s the other problem,’ he (Sherriff Heino) said, observing that the Sheriff’s Office often has to help new deputies find affordable housing whenever they are brought in from other agencies.’

“Since this proposal is for year-round residential, this will not have an increased effect on the public safety or general welfare of the residents in this area.”

The subject property is located within the Somers Fire District and the nearest fire station in the district is located approximately 10.5 miles from the property. The Somers Fire Department would respond in the event of a fire or medical emergency and the Flathead County Sheriff’s Department provides police services to the subject property.

Emergency service providers can anticipate likely emergencies based on similar existing and proposed uses. The SAG-5 zoning classification would allow for similar uses to what already exists in the area and what is allowed within in the current and neighboring AG-80, and SAG-10 designation, therefore the zone change is not anticipated to adversely impact public health, safety or welfare.

Finding #4: The proposed zoning map amendment would not have a negative impact on public health, safety, and general welfare because the property is served by the Somers Fire Department, Flathead County Sheriff, future development would be similar to uses already allowed in the current AG-80, and SAG-10 zoning, and emergency service providers can anticipate likely emergencies based on similar existing and proposed uses.

c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

The application states, *“The transportation requirement, water and sewerage have all been previously addressed in several growth policy support statements. The parks requirements have been addressed in the surrounding subdivisions, and if this area were ever to go through subdivision review, if more parks were to be*

needed, that would be mitigated at that time. Currently, Flathead County is 83% federal or state land with National Forest lands that have recreational opportunities in all four seasons close by.

“The Flathead County school system has recently expanded the elementary school in Somers. According to the Flathead County School superintendent, the Somers Elementary School had 553 children enrolled in the K-8 program in 2020. This is a 5% drop in enrollment over the past 10 years. The student projections show a steady decline since the 2011 school year. The elementary school has a current enrollment of 553 students. The current trend, of which this proposal follows, is that the housing should not adversely alter the Somers student enrollment but add stability.

“Flathead County high School has experienced a similar trend with 2953 students in 2020 with a 10-year decline trend of 2%.”

Primary access to the property is currently via Lower Valley Road. Lower Valley Road is a two-lane paved public road within a 60-foot easement at this location and the most recent traffic count of 381 ADT is from 2011.

Staff calculated estimated average daily traffic (ADT) using a standard trip generation of 10 trips per single family dwelling. With 10 additional dwellings the proposal has the potential to increase traffic by 30 vehicles trips per day. This increase translates into a 7.87% increase in the 2011 traffic counts. Given the current state of development in the County, that percentage is likely lower.

The applicant has stated that the subject property will be serviced by individual sewer and water systems. The applicant will be required to work with Flathead City-County Health Department to develop an on-site well and sewer system to meet the needs of any future development. Flathead City-County Environmental Health Department did not have comment on the proposal.

According to the 2019 Census estimates, there are 49,531 housing units in the Flathead County. The Flathead County Statistical Report of Schools 2020 states there are 16,758 students enrolled in public, private and home schools. The total students (16,758) divided by the total households (49,531) equals approximately 0.34 students per household. Therefore, three additional lots could generate approximately one school age child. It is anticipated that the school would have capacity should any residential growth occur as a result of the proposed zoning map amendment.

The zoning map amendment would change the current 80-acre minimum lot size to a smaller 5-acre minimum lot size, it is anticipated subsequent future development would require review and parkland would not be required at that time because the lots created would be greater than five gross acres in size. There are numerous parks, natural areas, and recreational opportunities within a short drive of the subject property.

Finding #5: The proposed zoning map amendment would facilitate the adequate provision of transportation because the existing infrastructure appears adequate to

accommodate the change in zoning, and the traffic generated from this proposal would be approximately 30 average daily trips.

Finding #6: The proposed zoning map amendment would not hinder the adequate provision of water, sewer, schools, and parks because the applicant will utilize individual septic systems and wells which will require future review, the proposal will generate minimal school age children and there are numerous parks, natural areas, and recreational opportunities in the vicinity.

3. In evaluating the proposed map amendment, consideration shall be given to:

a. The reasonable provision of adequate light and air;

According to the application, *“Yes. The reason for this submittal is because there is a suitable building and septic location towards the back of the 19.47 acres that is open and has natural light and is open. This is towards the south part of the property that is accessible from Lower Valley Road and so residential lighting will not adversely affect the adjoining properties.”*

Any additional lots created, or structures constructed would be required to meet the bulk, dimensional, permitted lot coverage and minimum lot area requirements of the SAG-5 zoning classification. The maximum building height within the proposed SAG-5 zone is 35 feet and the maximum building height of the existing AG-80 zone is 35 feet. Permitted lot coverage is 20% for the existing zoning classifications and 25% for the proposed SAG-5. The minimum lot area for SAG-5 is 5 acres and the minimum lot area for the existing AG-80 is 80 acres. The subject property totals 19.55 acres, zero additional lots could be created under the existing zoning. The proposed zoning would allow for approximately three additional lots to be created.

As previously stated, the setback requirements within the current and proposed zoning require a 20-foot setback from front, rear, side-corner and side boundary line for principal structures and a setback of 20 feet for the front and side-corner and 5 feet from the rear and side for accessory structures. A 20-foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20-foot setback is required from county roads classified as collector or major/minor arterials for both the proposed and current zoning. The bulk and dimensional requirements for the SAG-5 designation have been established to provide for a reasonable provision of light and air.

Finding #7: The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional, setbacks and lot coverage requirements within the proposed SAG-5 designation.

b. The effect on motorized and non-motorized transportation systems;

Concerning transportation the application indicates, *“This proposal would have a cumulative projection of an additional 10 vt/d on Lower Valley Road. The average daily travel in a 2010 traffic study is 381. As a collector, this road is not even at 10% capacity and this proposal could have an impact well within the design of the*

road. There are no non-motorized routes along this portion of Lower Valley Road at this time and so there is no effect on that system.”

Primary access to the property is currently via Lower Valley Road. Lower Valley Road is a two-lane paved public road within a 60-foot easement at this location and the most recent traffic count of 381 ADT is from 2011.

Staff calculated estimated average daily traffic (ADT) using a standard trip generation of 10 trips per single family dwelling. With 10 additional dwellings the proposal has the potential to increase traffic by 30 vehicles trips per day. This increase translates into a 7.87% increase in the 2011 traffic counts. Given the current state of development in the County, that percentage is likely lower.

There are no existing bike/pedestrian facilities currently located along Lower Valley Road. A future proposed Connector bike/pedestrian trail is identified on Lower Valley Road in the Flathead County Trails Plan. When subdivision takes place in the future, a bike/pedestrian easement will be required on the plat map.

Finding #8: Effects on motorized and non-motorized transportation systems will be minimal because the existing road infrastructure appears adequate to accommodate the change in zoning, this proposal would likely generate an additional 30 ADT and a bicycle/pedestrian will be required on the plat map when subdivided.

c. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

The incorporated City of Kalispell, which is the nearest city, is located approximately 1.76 miles west of the subject property. The subject property is located outside both the annexation boundary and Growth Policy Future Land Use Map.

Finding #9: The proposed zoning map amendment would be compatible with current urban growth in the Kalispell area because the subject property is outside the annexation boundary and is not indicated on the Kalispell Growth Policy Future Land Use Map.

d. The character of the district(s) and its peculiar suitability for particular uses;

The character of the district and its peculiar suitability for particular uses can best be addressed using the “three part test” established for spot zoning by legal precedent in the case of *Little v. Board of County Commissioners*. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a review of the three-part test in relation to this application and the character of the district and its peculiar suitability for particular uses.

i. *The zoning allows a use that differs significantly from the prevailing use in the area.*

The intent of the existing ‘AG-80 Agricultural’ zone is to protect and preserve agricultural land for the performance of a wide range of agricultural functions. The purpose of the proposed ‘SAG-5 Suburban Agricultural’ zone is to provide

and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses.

The amendment would decrease the number of permitted uses from 25 to 16 and the number of conditional uses would increase from 22 to 28. The proposed SAG-5 would allow for the similar uses as the adjacent AG-80 and AG-20 zoning. The existing AG-80 zoning the minimum lot area is 80 acres while the proposed SAG-5 zone has a 5-acre minimum lot area. The properties to the west are considered legally non-conforming with their AG-80 zoning as they are already five and 10 acres which is below the 80-acre minimum required by the zoning designation. The property located 0.25 miles to the east does not have a zoning designation with restrictions concerning permitted and conditional uses, minimum lot sizes or bulk and dimensional requirements.

The character of the overall zoning district is rural residential, and either open space/pasture or agricultural production. The proposed zoning map amendment, if approved, would allow for uses that are typical of suburban agricultural zoning districts and similar to uses that are allowed and exist under the existing agricultural zoning and on the area properties with no zoning designation.

ii. ***The zoning applies to a small area or benefits a small number of separate landowners.***

While the proposal applies to one lot with one owner, the adjacent lots to the west are similarly developed and approximately five and 10 acres which are legally non-conforming to the AG-80 zoning designation. Within 1.76 miles to the west is similar SAG-5 zoning and 0.25 acres to the east are properties with no zoning designations.

iii. ***The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and, thus, is in the nature of special legislation.***

The subject property is currently owned by a single landowner however, the permitted and conditional uses listed within a SAG-5 zone are similar to the permitted and conditional uses in the current AG-80 zone, as discussed in the build-out analysis. The lots to the east in similarly zoned AG-80 are approximately five to 10 acres and similarly developed. The nearest SAG-5 zoned property is located approximately 1.76 miles to the west and property with no zoning designation is located approximately 0.25 miles to the east.

The zoning map amendment would allow uses that are typical of suburban agricultural zoning districts and similar to uses that are allowed under the existing agricultural zoning and the suburban agricultural zoning of the surrounding area.

Finding #10: The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed zone change would allow for the same uses permitted throughout the neighboring properties and allow the size of the adjacent legally non-conforming lots.

e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

The adjacent properties are all similarly open pasture/grassland and developed with single family residence. The properties to the west are smaller legally non-conforming lots of five to 10 acres with single family dwellings. The uses allowed within the SAG-5 zone are similar to what is permitted and what currently exists in the surrounding AG-80 and AG-20 designations. Allowing the requested zoning amendment on the subject property could conserve the value of buildings and encourage the most appropriate use of the land throughout the jurisdictional area.

Finding #11: This zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the SAG-5 designation allows for similar uses to the surrounding AG-80, AG-20 designations.

4. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

The nearest incorporated city is the City of Kalispell which is located approximately 1.76 miles west of the subject property. The subject property is located outside both the annexation boundary and Growth Policy Future Land Use Map.

Finding #12: The proposed map amendment will not impact the compatibility of zoning ordinances of nearby municipalities because the closest incorporated city Kalispell is located approximately 1.76 miles west of the subject property and outside of both the Kalispell annexation boundary and Growth Policy Future Land Use Map.

I. SUMMARY OF FINDINGS

1. The proposed zoning map amendment from AG-80 to SAG-5 is generally supported by the text, goals, and policies of the Growth Policy because it would encourage housing that maintains traditional development patterns, is not currently used for nor has it been historically used for agricultural, and it would allow for lot sizes and land uses that exists in the adjacent AG-20, and AG-80 zones.
2. The proposed map amendment would secure safety from fire and other dangers because the subject property is not in the WUI, and emergency services are available.
3. The subject property has minimal flood risk because it is located in a flood hazard Shaded Zone X.
4. The proposed zoning map amendment would not have a negative impact on public health, safety, and general welfare because the property is served by the Somers Fire Department, Flathead County Sheriff, future development would be similar to uses already allowed in the current AG-80, and SAG-10 zoning, and emergency service providers can anticipate likely emergencies based on similar existing and proposed uses.
5. The proposed zoning map amendment would facilitate the adequate provision of transportation because the existing infrastructure appears adequate to accommodate the change in zoning, and the traffic generated from this proposal would be approximately 30 average daily trips.

6. The proposed zoning map amendment would not hinder the adequate provision of water, sewer, schools, and parks because the applicant will utilize individual septic systems and wells which will require future review, the proposal will generate minimal school age children and there are numerous parks, natural areas, and recreational opportunities in the vicinity.
7. The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional, setbacks and lot coverage requirements within the proposed SAG-5 designation.
8. Effects on motorized and non-motorized transportation systems will be minimal because the existing road infrastructure appears adequate to accommodate the change in zoning, this proposal would likely generate an additional 30 ADT and a bicycle/pedestrian will be required on the plat map when subdivided.
9. The proposed zoning map amendment would be compatible with current urban growth in the Kalispell area because the subject property is outside the annexation boundary and is not indicated on the Kalispell Growth Policy Future Land Use Map.
10. The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed zone change would allow for the same uses permitted throughout the neighboring properties and allow the size of the adjacent legally non-conforming lots.
11. This zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the SAG-5 designation allows for similar uses to the surrounding AG-80, AG-20 designations.
12. The proposed map amendment will not impact the compatibility of zoning ordinances of nearby municipalities because the closest incorporated city Kalispell is located approximately 1.76 miles west of the subject property and outside of both the Kalispell annexation boundary and Growth Policy Future Land Use Map.

II. CONCLUSION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: DV